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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,798	10/16/2003	Richard A. Sunshine	US20000055-1	7931
173	7590	01/17/2006	EXAMINER	
WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085			PERRIN, JOSEPH L	
			ART UNIT	PAPER NUMBER

1746

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,798

Applicant(s)

SUNSHINE ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 and 25-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-24, 45-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Regarding the rejection of claim 45 under 35 USC §112, first paragraph, applicant points to paragraphs [0051] and [0075] of the application and argues that a cabinet assembly comprising both interconnecting panels and interconnecting frame elements is supported. The Examiner disagrees. Claim 45 is directed to newly introduced subject matter which is not supported in applicant's original disclosure as filed in "full, clear, concise, and exact terms" as required under 35 USC §112, first paragraph. The newly introduced limitation (newly introduced in the amendment of 18 October 2004) is not supported by any disclosed embodiments, as noted in the rejection, and fails to comply with the statute.
2. Regarding the rejection of claims 1, 10-24, and 45-48 under 35 USC §112, second paragraph, applicant cites *Orthokinetics* (see MPEP 2173.05(b)) and argues that the claims are definite. The Examiner disagrees that the *Orthokinetics* caselaw directly correlates to applicant's claimed invention. As discussed by applicant, *Orthokinetics* holds that a wheelchair "so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats thereof...". On the contrary, applicant's claims are to a cabinet "sized to house" a variable sized "washing machine" and "clothes dryer". If applicant's claims were directed to a washing machine sized to be housed in a cabinet, such claim language possibly could be correlated to *Orthokinetics*. Applicant's claims rely on the open ended size of the cabinet referencing

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a relative variable. This is precisely the issue in *Ex parte Brummer*, 12 USPQ2d 1653 (Bd. Pat. App. & Inter. 1989) which held that “[a] claim may be rendered indefinite by reference to an object that is variable.” (see MPEP 2173.05(b)) Similar to *Brummer*, which attempted to claim a wheelbase relative to a user height, applicant attempts to claim a cabinet size relative to a washing machine and clothes dryer. The size of these appliances greatly range from small portable appliances to large industrial appliances. Moreover, applicant’s language of a “space sized to house” such an appliance provides no upper limit. That is, such language reads on a space for a small, portable and compact appliance up to any room in a house or building as a “space sized to house” such appliances. Clearly, the metes and bounds of applicant’s claimed subject matter is not defined and the claims are considered indefinite.

3. Applicant’s arguments filed 14 November 2005 have been fully considered but they are not persuasive.

4. Regarding the rejection of claims 1, 10, 12-14, 20, and 45-48 under 35 USC §103(a) over SANKA and TOSHIO ‘299 or TOSHIO ‘096, applicant argues that there is no motivation, suggestion, or teaching to combine the references. In response to applicant’s argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958

F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the position is taken that it would be well within the knowledge of one having ordinary skill in the art of woodworking, cabinetry, and similar arts to combine the laundry cabinets of the prior art references in forming a single laundry cabinet structure as claimed by applicant.

As cited by the Examiner, it is well settled that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. It is noted that on page 12 of applicant's response applicant states that a person reasonably skilled in the art of woodworking, cabinetry, and similar arts would be capable of making or using a cabinet assembly of a modular assembly of box-like containers, doors, drawers and the like. Therefore, the position is maintained that it would be well within the knowledge and level of one having ordinary skill in the art at the time the invention was made to combine/integrate the laundry cabinet components of SANKA with either TOSHIO reference in order to arrive at applicant's claimed invention of a cabinet with plural laundry cabinet components. Integrating laundry cabinets to form a single laundry cabinet would be obvious particularly in view of the well settled caselaw cited. Furthermore, as evidenced by CHAN, the concept of integrating modular cabinets is well known. Further regarding applicant's arguments with respect to "three compartments as claimed", such argument is not commensurate in scope with the claimed invention. Claiming a "discrete space" is not limiting to a specific structural compartment, i.e. no walls are claimed to define the "space". Even if, *arguendo*, one were to construe such language as requiring specific structural compartments with walls therebetween, simply duplicating parts would be an obvious modification particularly in

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view of the plural compartments of the cited references. Clearly, SANKA discloses "discrete spaces" for appliances.

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. Regarding the rejection of claims 11, 15-16 and 21-24 further in view of PROCTOR, applicant repeats arguments of no suggestion to combine the reference. This is not persuasive for at least reasons previously indicated.

7. Regarding the rejection of claims 17-19 further in view of RICE, applicant repeats arguments of no suggestion to combine the reference. This is not persuasive for at least reasons previously indicated. Applicant's argument that in the combination is "untenable" given the size and configuration of the cabinet and portable boot dryer are not persuasive. It is submitted that the combination is well within the knowledge and level of "a person reasonably skilled in the art of woodworking, cabinetry, and similar arts".

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 45 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a cabinet assembly comprising a plurality of interconnecting panels (i.e. Figure 8 and relative associated text) or an alternate embodiment of a cabinet assembly comprising a plurality of panels carried by interconnected frame elements (i.e. Figure 9 and relative associated text), does not reasonably provide enablement for a cabinet assembly comprising both interconnecting panels and interconnecting frame elements. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. Applicant's original disclosure is not enabled for the combination of the alternative embodiments.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 10-24 & 45-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed discrete spaces "sized to house a washing machine" and "sized to house a clothes dryer" fail to define the metes and bounds of the claimed patent protection sought. Since such appliances are readily

available in various sizes, the claimed spaces do not clearly set forth the dimensions claimed, out of the vast number of possible washers and dryers which may or may not fit in such spaces. Applicant's attempt to claim a void based on the intended use of a washer or dryer fails to particularly point out and distinctly claim the cabinet structure. It is noted that the recitation of a washer and clothes dryer is intended use and is only afforded patentable weight to the extent that the apparatus requires the capability to perform the intended use.

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 1, 10, 12-14, 20 & 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of JP 7-088299 to TOSHIO (previously cited; electronic translation provided) or JP 7-096096 to TOSHIO (previously cited; electronic translation provided) as evidenced by U.S. Patent No. 5,466,058 to CHAN. Re claims 1, 46, & 47, SANKA discloses (for instance in Figures 1-7 and relative associated text) a laundry cabinet assembly with interconnecting panels defining spaces including space for washer 40, a drying space A, a plurality of removable exterior decorative fascia panels 21-23 (fancy plywood), and an air moving device arranged to deliver air into and out of the drying space A (see air circuit dehumidification system of clothes dryer 30 in paragraphs [0030] – [0032]). Re claim 10, SANKA discloses a slidable shelf 70 (see paragraph [0023]). Re claims 12-13, SANKA further discloses a rod in the

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supplemental drying space for supporting clothes on a hanger (see Figure 6 and paragraph [0025]). Re claim 14, SANKA further discloses the cabinet having an open front side with cover panels 50/60 (see paragraph [0025] and Figures). Re claim 20, SANKA further discloses a perforated horizontal surface on the bottom of the drying space (see Figure 7). Re claim 45, SANKA discloses the cabinet being formed by installing panels 21-23 (see paragraphs [0014] & [0019]) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto. Re claims 1 & 48, both TOSHIO '299 and TOSHIO '096 disclose a laundry cabinet assembly with discrete spaces for a washing machine and clothes dryer formed by interconnected panels (see, for instance, Figures 1, 3, 8, 9 of both references). It would have been obvious to one having ordinary skill in the art at the time the invention was made combine the laundry cabinet of SANKA with the laundry cabinet of TOSHIO '299 or TOSHIO '096, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177 (BPAI 1969); *In re Wolfe* 116 USPQ 443; *In re Howard*, 150 U.S. 164 (1893). Moreover, the position is taken that it is within the level of ordinary skill in the art to integrate the prior art laundry centers having plural discrete spaces to form an integrated laundry center having the claimed plural discrete spaces and one of ordinary skill in the art at the time the invention was made would have a reasonable expectation of success in combining plural discrete spaces of the prior art to arrive at the combined plural discrete spaces as claimed by applicant. Such integration can be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular

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cabinet system which can be constructed in various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures).

14. Claims 11, 15-16 & 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of TOSHIO '299 or TOSHIO '096, and further in view of PROCTOR (previously cited). Recitation of SANKA, TOSHIO '299 & TOSHIO '096 are repeated here from above. Although SANKA does disclose a drying space in the cabinet and a slidable shelf/rack, SANKA does not expressly disclose multiple slidable shelves/racks. PROCTOR teaches that it is well known to provide a drying cabinet with slidable drawers for supporting articles to be dried as well as accessing/extracting the article before and after drying (see page 2, line 1 *et seq.* of PROCTOR). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA with the slidable drawers of PROCTOR for the purpose of providing support and easy access to a plurality of articles which are to be dried. The drawers of PROCTOR read on applicant's claimed "slidable shelves", "slidable rack" and "shoe dryer". Moreover, it is noted that the use of the drawers are considered intended use and given little weight.

15. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over SANKA in view of TOSHIO '299 or TOSHIO '096, and further in view of RICE (previously cited). Recitation of SANKA, TOSHIO '299 & TOSHIO '096 are repeated here from above. Although SANKA does disclose a drying space in the cabinet, SANKA does not expressly disclose shoe dryers. RICE teaches that it is well known to

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dry hollow articles such as boots and gloves using dryers by inserting heated air into the articles (col. 1, line 13 *et seq.*) and further discloses a portable dryer for such hollow articles with convenient portability and storage, the portable dryer having a bottom support 134, a stem portion 22 for insertion into the hollow article to be dried, an air flow outlet at the end of the stem 116/117, and an air moving device 16 (see col. 1, lines 7-11 & Figures 1-2, 6, and relative associated text). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA with the portable shoe dryers of RICE for the purpose of improved, more efficient drying of hollow articles such as shoes.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

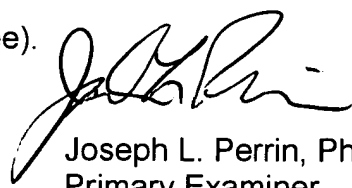
17. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

jlp